

ER-6-8346

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May 4, 1954

Dear Mr. Reed:

Reference is made to your letter of March 16, 1954 transmitting copies of H.R. 8000 "To promote the national security of the United States, and for other purposes", and requesting this Department to furnish your Committee with an expression of its views on the proposed legislation. Reference is also made to the Department's interim telephonic acknowledgement of March 18, 1954.

In general, the objective of H.R. 8000 appears to be to encourage defection among Communist government officials. The Department is wholeheartedly in agreement with such objective as all reasonable encouragement should be given defectors from Communism. The Department, however, deems it desirable to invite the attention of the Committee to certain existing laws and procedures in this regard which seem to have a direct bearing on the matter.

Section 212(a)(28)(I) of the Immigration and Nationality Act contains a defector provision under which a former Communist in applying for a visa is required to show five years of active opposition to the doctrine, program, principles and ideology of the Communist Party and to establish further that his admission into the United States would be in the public interest. This provision is applicable to both immigrants and nonimmigrants.

Under this provision of law, the Congress apparently deemed it advisable to require a considerable lapse of time, namely, five years, during which the alien's active opposition to Communism might be amply demonstrated.

The Act of June 20, 1949 (63 Stat. 208) provides, in part, for the entry into the United States of certain aliens when it is deemed to be in the interest of national security or essential to the furtherance of the national intelligence mission, without

regard to....

The Honorable

Chauncey W. Reed, Chairman,
Committee on the Judiciary,
House of Representatives.

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regard to their inadmissibility under the immigration laws and regulations. The entry of such aliens under this Act is limited to those cases in which the Director of the Central Intelligence Agency, the Attorney General, and the Commissioner of Immigration and Naturalization determine that the entry of such aliens into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission. This Act provides also for the admission of the alien's "immediate family". All admissions under this Act are for "permanent residence" or, in other words, as immigrants. The number of aliens who may enter the United States under the authority of this Act is limited to 100 persons in any one fiscal year.

Although the Department will interpose no objection to the enactment of H.R. 8000, it is of the opinion that the above-cited laws and the procedures now in effect implementing them will suffice to care for the foreseeable cases of the nature considered by this bill. However, if it is deemed desirable that H.R. 8000 be enacted into law, the Department offers the following observations for appropriate consideration.

It is to be noted that both of the above-mentioned Acts provide for admission into the United States of aliens qualified thereunder as immigrants, which permits them to remain in the United States permanently or indefinitely, whereas H.R. 8000 provides for the admission of defectors as nonimmigrants or temporary visitors. It appears unlikely that the opportunity of being admitted into the United States temporarily, as H.R. 8000 provides, would be considered an appreciable inducement to defect from Communism.

There is no provision in the bill for the admission into the United States of those defectors, their wives and children, who may be issued nonimmigrant visas. The possession of a visa will not assure their entry into the United States since they would be subject to inspection and exclusion by Immigration officers in applying for admission at a port of entry. The bill also is applicable to the "government official and his wife and his children" (underscoring supplied). This would preclude the issuance of visas to the husband and children of a female Communist government official. Additionally, it would appear desirable to limit the "children" to those who are unmarried and under 21 years of age, and to specify in the bill exactly what status a defector would have in the United States, assuming he is issued a visa and admitted into the United States. Therefore, if the bill is to be enacted into law, it is suggested that the introductory sentence to Section 3 of the bill (lines 8 through 12 on page 2), be amended to read as follows:

"Sec. 3....

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"Sec. 3. Notwithstanding the provisions of Section 212(a)(28) of the Immigration and Nationality Act (66 Stat. 184), special nonimmigrant visas may be issued to any alien Communist government official, his spouse, and unmarried children under 21 years of age, and such official, spouse, and children may be admitted into the United States in a nonimmigrant status, if otherwise qualified under the immigration laws: Provided, That such official _____."

The words "country in the Free World" appearing in Section 3(b) on line 17 of page 2 of the bill might be susceptible at some future date to a construction other than that intended. Although the words "country in the Free World" are considered clear in the sense of present usage, they constitute a term that without precise definition might be given another meaning at some future date. As these words are preceded by the words "Communist country's government", and the term "Communist country" is specifically defined in the bill, it appears desirable that the words "a country of the Free World" be deleted and the words "some other country" be substituted in lieu thereof.

Section 4 of the proposed bill appears to confuse the period of validity of a visa with the period of the alien's stay in the United States. The title to section 4 should be amended to read: "Authority to Revoke Visa and Terminate Status". Further, it is suggested that the text of section 4 of the bill be amended to read as follows:

"Sec. 4. The Secretary of State is authorized, whenever the best interests of the United States so require, to revoke any special nonimmigrant visa issued pursuant to this Act. The period of admission of any alien admitted into the United States under the provisions of this Act shall be terminated by the Attorney General whenever the country whose government formerly employed such alien shall no longer be governed or dominated by the Communist conspiracy: Provided, That the personal safety of the alien would not thereby be placed in jeopardy."

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

For the Acting Secretary of State

/s/ Thruston B. Morton
Assistant Secretary

18 March 1955

Mr. Dulles:

STAT

Mr. [redacted] has read the
attached. Do you now wish to have it filed?

EP-File

Yes/No

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